

AMENDED IN SENATE AUGUST 31, 2012

AMENDED IN SENATE AUGUST 24, 2012

AMENDED IN SENATE AUGUST 22, 2012

AMENDED IN SENATE AUGUST 6, 2012

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AMENDED IN ASSEMBLY APRIL 19, 2012

AMENDED IN ASSEMBLY APRIL 11, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1900

**Introduced by Assembly Members Gatto, Chesbro, and
Roger Hernández**

(Coauthors: Assembly Members Gordon and Skinner)
(Coauthors: Senators Cannella and Liu)

February 22, 2012

An act to amend Section 25420 of, and to repeal and add Section 25421 of, the Health and Safety Code, to add Section 25326 to the Public Resources Code, and to add Sections 399.24 and 784 to the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1900, as amended, Gatto. Renewable energy resources: biomethane.

(1) Existing law requires the Public Utilities Commission (PUC) to specify the maximum amount of vinyl chloride that may be found in landfill gas. Existing law prohibits a gas producer from knowingly selling, supplying, or transporting to a gas corporation, and a gas corporation from knowingly purchasing, landfill gas containing vinyl chloride in a concentration exceeding the maximum amount determined by the PUC. Existing law requires a person who produces, sells, supplies, or releases landfill gas for sale offsite to a gas corporation to sample and test, bimonthly, the gas at the point of distribution for chemicals known to the state to cause cancer or reproductive toxicity.

Existing law requires the Office of Environmental Health Hazard Assessment (OEHHA) to evaluate the environmental and health risks posed by various hazardous substances.

This bill would require OEHHA, in consultation with the State Air Resources Board, the Department of Toxic Substances Control, the Department of Resources Recycling and Recovery, and the California Environmental Protection Agency, to compile a list of constituents of concern that could pose risks to human health and that are found in biogas, as defined, at concentrations that significantly exceed the concentrations of those constituents in natural gas. The bill would require OEHHA to determine the health protective levels for that list, as specified, and would require the state board to identify realistic exposure scenarios and the health risks associated with those scenarios, as specified. The bill would require the state board to determine the appropriate concentrations of those constituents, as specified. The bill would also provide that actions taken pursuant to the above-described requirements do not constitute regulations and are exempt from the Administrative Procedure Act.

The bill would further require the PUC to adopt, by rule or order, (1) standards for biomethane that specify the concentrations of constituents of concern that are reasonably necessary to protect public health and ensure pipeline integrity and safety, as specified, and (2) requirements for monitoring, testing, reporting, and recordkeeping, as specified. The bill would require a gas corporation, as defined, to comply with those standards and requirements. The bill would require the PUC to require gas corporation tariffs to condition access to common carrier pipelines on the applicable customer meeting those standards and requirements. The bill would also prohibit a person and a gas corporation from knowingly engaging in specified transactions involving common carrier

pipelines and biogas collected from a hazardous waste landfill, as defined.

(2) The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission) and requires it to prepare an integrated energy policy report on or before November 1, 2003, and every 2 years thereafter. The act requires the report to contain an overview of major energy trends and issues facing the state, including, but not limited to, supply, demand, pricing, reliability, efficiency, and impacts on public health and safety, the economy, resources, and the environment.

This bill would require the Energy Commission to hold public hearings to identify impediments that limit procurement of biomethane in California, including, but not limited to, impediments to interconnection. The bill would require the Energy Commission to offer solutions to those impediments as part of the above-mentioned report.

(3) This bill would require the PUC to adopt policies and programs that promote the in-state production and distribution of biomethane.

(4) Existing law allows the PUC to set heating and purity requirements for biomethane injected into a gas pipeline. Existing law allows gas corporations to impose tariffs on biomethane injected into their pipelines.

This bill would require the PUC to adopt pipeline access rules that ensure that each gas corporation provides nondiscriminatory open access to its gas pipeline system to any party for the purposes of physically interconnecting with the gas pipeline system and effectuating the delivery of gas.

(5) This bill would become operative only if this bill and AB 2196 of the 2011–12 Regular Session are both enacted and become effective on or before January 1, 2013.

~~(5)~~

(6) Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the PUC is a crime.

Because this bill would require action by the PUC to implement certain of its requirements, a violation of which would be a crime, these provisions would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25420 of the Health and Safety Code is
2 amended to read:

3 25420. For purposes of this chapter, the following definitions
4 apply:

5 (a) "Biogas" means gas that is produced from the anaerobic
6 decomposition of organic material.

7 (b) "Biomethane" means biogas that meets the standards adopted
8 pursuant to subdivisions (c) and (d) of Section 25421 for injection
9 into a common carrier pipeline.

10 (c) "Board" means the State Air Resources Board.

11 (d) "CalRecycle" means the Department of Resources Recycling
12 and Recovery.

13 (e) "Commission" means the Public Utilities Commission.

14 (f) "Common carrier pipeline" means a gas conveyance pipeline,
15 located in California, that is owned or operated by a utility or gas
16 corporation, excluding a dedicated pipeline.

17 (g) "Dedicated pipeline" means a conveyance of biogas or
18 biomethane that is not part of a common carrier pipeline system,
19 and which conveys biogas from a biogas producer to a conditioning
20 facility or an electrical generation facility.

21 (h) "Department" means the Department of Toxic Substances
22 Control.

23 (i) "Gas corporation" has the same meaning as defined in Section
24 222 of the Public Utilities Code and is subject to rate regulation
25 by the commission.

26 (j) "Hazardous waste landfill" means a landfill that is a
27 hazardous waste facility, as defined in Section 25117.1.

28 (k) "Office" means the Office of Environmental Health Hazard
29 Assessment.

1 (l) "Person" means an individual, trust, firm, joint stock
2 company, partnership, association, business concern, limited
3 liability company, or corporation. "Person" also includes any city,
4 county, district, and the state or any department or agency thereof,
5 or the federal government or any department or agency thereof to
6 the extent permitted by law.

7 SEC. 2. Section 25421 of the Health and Safety Code is
8 repealed.

9 SEC. 3. Section 25421 is added to the Health and Safety Code,
10 to read:

11 25421. (a) On or before May 15, 2013, all of the following
12 shall be completed:

13 (1) The office, in consultation with the board, the department,
14 CalRecycle, and the California Environmental Protection Agency,
15 shall compile a list of constituents of concern that could pose risks
16 to human health and that are found in biogas at concentrations that
17 significantly exceed the concentrations of those constituents in
18 natural gas. The office, in consultation with the board, the
19 department, CalRecycle, and the California Environmental
20 Protection Agency, shall update this list at least every five years.

21 (2) The office shall determine health protective levels for the
22 list of constituents of concern identified pursuant to paragraph (1).
23 In determining those health protective levels, the office shall
24 consider potential health impacts and risks, including, but not
25 limited to, health impacts and risks to utility workers and gas end
26 users. The office shall update these levels at least every five years.

27 (3) The board shall identify realistic exposure scenarios and, in
28 consultation with the office, shall identify the health risks
29 associated with the exposure scenarios for the constituents of
30 concern identified by the office pursuant to paragraph (1). The
31 board shall update the exposure scenarios, and, in consultation
32 with the office, the health risks associated with the exposure
33 scenarios, at least every five years.

34 (4) Upon completion of the responsibilities required pursuant
35 to paragraphs (1) through (3), the board, in consultation with the
36 office, the department, CalRecycle, and the California
37 Environmental Protection Agency shall determine the appropriate
38 concentrations of constituents of concern. In determining those
39 concentrations, the board shall use the health protective levels
40 identified pursuant to paragraph (2) and the exposure scenarios

1 identified pursuant to paragraph (3). The concentrations shall be
2 updated at least every five years by the board in consultation with
3 the office, the department, CalRecycle, and the California
4 Environmental Protection Agency.

5 (5) The board, in consultation with the office, the department,
6 CalRecycle, and the California Environmental Protection Agency,
7 shall identify reasonable and prudent monitoring, testing, reporting,
8 and recordkeeping requirements, separately for each source of
9 biogas, that are sufficient to ensure compliance with the health
10 protective standards adopted pursuant to subdivision (d). The
11 board, in consultation with the office, the department, CalRecycle
12 and the California Environmental Protection Agency shall update
13 the monitoring, testing, reporting, and recordkeeping requirements
14 at least every five years.

15 (b) Actions taken pursuant to subdivision (a) shall not constitute
16 regulations and shall be exempt from the administrative regulations
17 and rulemaking provisions of the Administrative Procedure Act
18 (Chapter 3.5 (commencing with Section 11340) of Division 2 of
19 Title 2 of the Government Code).

20 (c) On or before December 31, 2013, for biomethane that is to
21 be injected into a common carrier pipeline, the commission shall,
22 by rule or order, adopt standards that specify, for constituents that
23 may be found in that biomethane, concentrations that are
24 reasonably necessary to ensure both of the following:

25 (1) The protection of human health. In making this specification,
26 the commission shall give due deference to the determinations of
27 the board pursuant to paragraph (4) of subdivision (a).

28 (2) Pipeline and pipeline facility integrity and safety.

29 (d) To ensure pipeline and pipeline facility integrity and safety,
30 on or before December 31, 2013, the commission, giving due
31 deference to the board's determinations, shall, by rule or order,
32 adopt the monitoring, testing, reporting, and recordkeeping
33 requirements identified pursuant to paragraph (5) of subdivision
34 (a).

35 (e) Every five years, or earlier if new information becomes
36 available, the commission shall review and update the standards
37 for the protection of human health and pipeline integrity and safety
38 adopted pursuant to subdivision (c), as well as the monitoring,
39 testing, reporting, and recordkeeping requirements adopted
40 pursuant to subdivision (d).

1 (f) (1) A person shall not inject biogas into a common carrier
2 pipeline unless the biogas satisfies both the standards set by the
3 commission pursuant to subdivision (c), as well as the monitoring,
4 testing, reporting, and recordkeeping requirements of subdivision
5 (d).

6 (2) The commission shall require gas corporation tariffs to
7 condition access to common carrier pipelines on the applicable
8 customer meeting the standards and requirements adopted by the
9 commission pursuant to subdivisions (c) and (d).

10 (g) (1) A person shall not knowingly sell, supply, or transport,
11 or knowingly cause to be sold, supplied, or transported, biogas
12 collected from a hazardous waste landfill to a gas corporation
13 through a common carrier pipeline.

14 (2) A gas corporation shall not knowingly purchase gas collected
15 from a hazardous waste landfill through a common carrier pipeline.

16 SEC. 4. Section 25326 is added to the Public Resources Code,
17 to read:

18 25326. (a) The commission shall hold public hearings to
19 identify impediments that limit procurement of biomethane in
20 California, including, but not limited to, impediments to
21 interconnection. The commission shall offer solutions to those
22 impediments as part of the integrated energy policy report prepared
23 pursuant to Section 25302.

24 (b) For the purposes of this section, “biomethane” means biogas
25 that meets the standards adopted pursuant to subdivisions (c) and
26 (d) of Section 25421 of the Health and Safety Code for injection
27 into a common carrier pipeline.

28 SEC. 5. Section 399.24 is added to the Public Utilities Code,
29 to read:

30 399.24. (a) To meet the energy and transportation needs of
31 the state, the commission shall adopt policies and programs that
32 promote the in-state production and distribution of biomethane.
33 The policies and programs shall facilitate the development of a
34 variety of sources of in-state biomethane.

35 (b) For the purposes of this section, “biomethane” means biogas
36 that meets the standards adopted pursuant to subdivisions (c) and
37 (d) of Section 25421 of the Health and Safety Code for injection
38 into a common carrier pipeline.

39 SEC. 6. Section 784 is added to the Public Utilities Code, to
40 read:

1 784. For each gas corporation, the commission shall adopt
2 pipeline access rules that ensure that each gas corporation provides
3 nondiscriminatory open access to its gas pipeline system to any
4 party for the purposes of physically interconnecting with the gas
5 pipeline system and effectuating the delivery of gas.

6 *SEC. 7. This act shall become operative only if this act and*
7 *Assembly Bill 2196 of the 2011–12 Regular Session are both*
8 *enacted and become effective on or before January 1, 2013.*

9 ~~SEC. 7.~~

10 *SEC. 8.* No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.